

Is Remote Deposition Technology Right for You?

BY DONNA M. HOFFMAN

Advances in technology have assisted society in becoming more time and cost efficient while improving our overall well-being. An increasingly popular advancement in court reporting services, the remote deposition can maximize litigators' productivity, reduce clients' costs, and lead to a better work-life balance.

Although one can attend a deposition remotely via speakerphone or Skype, sophisticated technology provides secure web conferencing and features that allow the user to present exhibits and get a real-time feed. Such technology allows an attorney, client, or expert to attend a deposition from anywhere in the world if they have a laptop with a webcam and an Internet connection—as long as the witness does too. It's an alternative to traditional videoconferencing where finding locations equipped to host the deposition is often challenging and is limited to video-to-video communication.

Photo credit: gstockstudio/123rf



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Consider the following benefits of using sophisticated remote deposition technology:

Maximize Time. As Benjamin Franklin said, “Lost time is never found again.” Travelling to a deposition wastes valuable time. An eight-hour deposition may cost an attorney 48 hours out of the office while driving to an airport, flying, and potentially staying overnight. With remote attendance, the attorney doesn’t have to leave the office and can resume work as soon as the deposition is over.

Reduce Costs. Airfare, car rental and hotel fees, and meal expenses are all eliminated with remote attendance. These cost savings are passed on to appreciative and cost-conscious clients.

Eco-Friendly. With remote attendance, exhibits need not be copied and shipped but can be uploaded and presented electronically, which saves costs and trees.

Additional Attendees. In-House counsel and expert witnesses can join the deposition remotely to view key witnesses and can privately communicate via chat with outside counsel during the deposition.

Prep Witnesses/Experts Remotely. In addition to remote deposition attendance, witnesses and experts can be prepped remotely.

Improve Work-Life Balance. Because remote deposition technology saves time, it gives attendees the flexibility and convenience to get back to life, whether that means going to a child’s event or pursuing a hobby or pastime.

Real-Time Feed. This is a live feed transcription of the spoken word at the deposition. This feature allows one to search keywords and highlight text.

Chat Capability. This feature allows attorneys to communicate privately, publicly, or with agency support staff via a chat screen during the deposition. Make sure to look at which tab you’re on to ensure that you are chatting privately while using this feature.

If you choose to give remote deposition technology a try, make sure the court reporting agency you choose offers security of data, which should be managed and stored in a secure data center that is HIPAA compliant; supervision of the remote deposition from start to finish to ensure that all goes smoothly, includ-

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Supreme Deliberations

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the appropriate supervision ratio for an elementary school playground based on the unique circumstances of that setting is not a simple issue with which every adult would be automatically familiar.”

Certainly, reasonable minds can differ regarding whether the supervision of large numbers of children is a task within the “common knowledge of a layperson.” But perhaps the most intriguing thing about *Osborn* to us appellate nerds was the starkly different ways that the majority and the dissent viewed the record; in particular, the testimony regarding the existence of a policy concerning the appropriate supervisor to student ratio. The principal testified that the board had a policy of “1 staff to 125 students” and that the policy was included “in the handbook for policies and procedures.” It was this testimony upon which the dissent based its argument that the plaintiffs needed an expert to establish that the defendants had violated the applicable standard of care *notwithstanding their compliance with the written policy*.

But as the majority pointed out, the dissent’s use of the principal’s testimony seems contrary to how reviewing courts

typically view the evidentiary record. The trial court, after all, did not make a finding regarding the existence of a policy or what the policy entailed, and the written policy itself was not admitted into evidence at trial. Thus, how do we know that the trial court found the principal’s testimony credible? And doesn’t the principle that an appellate court should read the record in the light most favorable to sustaining the judgment require the reviewing court to assume that the trial court did *not* find the testimony regarding the policy credible?

Perhaps the takeaway is that trial court judges in civil cases would be well advised to include a footnote in their written opinions that states something like the following: “any...evidence on the record not specifically mentioned in this decision that would support a contrary conclusion, whether said evidence was contested or uncontested by the parties, was considered and rejected by the court.” *State v. Diaz*, No. CR-17-0176287, 2018 WL 4955690, at *1 n.1 (Sep. 24, 2018) (*Vitale, J.*). Some judges in criminal cases have been dropping such a footnote over the past few years and, to our knowledge, none of the decisions containing the footnote has been subject to the scrutiny employed by the dissenters in *Osborn*. ■

Pro Bono

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will need to gather supplemental documentation, such as police incident reports and probation letters), and may appear at just one brief hearing before the Board of Pardons and Paroles. The legal services programs can mentor pro bono attorneys who are interested in this work, which can be done with an individual referral outside of a clinic context.

The assistance and support of a compassionate attorney goes a long way to helping men and women with criminal records complete the pardon application process. The pardon process requires all applicants to revisit their criminal past. They must write a personal essay about why they want a pardon and how they

have changed since their criminal activity. For many, writing the essay is an intensely painful and emotional experience, as they relive the years of addiction, victimization, mental illness, and troubled relationships. And in order to get the required references they must disclose their full criminal history to people who now know them as trustworthy co-workers, fellow congregants, or neighbors. Many people simply do not complete the application process because of the emotional pain involved.

Everyone who is granted a pardon will tell you that it is liberating to be unburdened by their criminal record, able to work and live without fear of being judged and obstructed for mistakes in their past. General Counsel David Robinson of The Hartford stated: “The Hartford was thrilled to

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ing available support staff for potential troubleshooting; and exhibit chain of custody, which should be the same as at a traditional deposition.

A growing number of attorneys have started to use remote deposition technology to enhance their practice and save time and money. If you have been considering it and the above benefits align with your practice’s needs, then remote deposition technology may be right for you. ■

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support GHLA’s first Pardon Clinic and help members of our greater Hartford community, who have paid their debt to society, move forward to lead productive lives without the often debilitating limitations of a criminal record.”

GHLA will follow up the success of our first pardon clinic with a second in the fall of 2020. We welcome inquiries from attorneys who would like to participate in our next clinic, plan a clinic, or begin a pardon project in their region. Let’s use our legal skills to secure pardons for more men and women who have profoundly changed their lives.

E-mail sgarten@ghla.org if you are interested in learning more about how you can help individuals get a pardon. ■